

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SERGEY SPITSYN,

Plaintiff,

v.

RICHARD MORGAN, *et al*,

Defendants.

Case No. C04-5134FDB-KLS

SECOND ORDER REGARDING
PLAINTIFF'S MOTION FOR
THIS COURT TO INTERVENE

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court on defendants' response (Dkt. #177) to the Court's order (Dkt. #175) regarding plaintiff's motion for this Court to intervene (Dkt. #159). After reviewing defendants' response and the balance of the record, the Court finds and orders as follows:

In his motion to intervene, plaintiff claimed that he was being prevented from having access to a DVD/CD (containing a camera recording of a January 1, 2005 incident) provided pursuant to a discovery request he had made. Specifically, plaintiff claimed the Superintendent at the institution where was incarcerated at the time denied such access on the basis that it could jeopardize institutional security. This denial was made allegedly on the advice of an Assistant Attorney General who formerly had appeared in this case. Plaintiff requested that the Court intervene so that he could view the DVD/CD.


Before ruling on the issue of whether plaintiff should be granted access to the DVD/CD, the

1 Court, recognizing that permitting plaintiff to physically receive, view, or otherwise gain access to the
2 requested DVD/CD may potentially implicate or jeopardize institutional security, granted defendants the
3 opportunity to show cause, with adequate support, why plaintiff's request should not be granted. On
4 September 7, 2007, defendants responded to the Court's order, stating that plaintiff in fact had been
5 allowed to, and did, view the DVD/CD on or about June 12, 2007. (Dkt. #177).

6 No reply to defendants' response and the statements made therein has been filed by plaintiff, nor
7 is there otherwise any indication that he did not in fact view the DVD/CD of the January 1, 2005 incident.
8 Accordingly, because plaintiff already has view the DVD/CD, the Court agrees with defendants that this
9 issue is moot, and plaintiff's motion to intervene (Dkt. #159) hereby is DENIED.

10 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

11 DATED this 15th day of October, 2007.

12
13
14 

15 Karen L. Strombom
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26
27
28